

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

FILED

JAN 12 2012

RICKEY WHITE,

Petitioner,

v.

RANDALL WORKMAN, Warden,

Respondent.

WILLIAM J. MONTGOMERY
Clerk, U.S. District Court
By Deputy Clerk

Case No. CIV 12-001-RAW-KEW

OPINION AND ORDER

Petitioner Rickey White, an inmate incarcerated at Oklahoma State Penitentiary in McAlester, Oklahoma, has filed yet another petition for a writ of habeas corpus, challenging his first-degree murder conviction and life sentence in Choctaw County, Oklahoma, Case No. CRF-81-83. The record shows that petitioner filed a previous habeas corpus petition in this court, challenging his conviction and sentence in Choctaw County District Court Case No. CRF-81-83, and that action was dismissed as barred by the statute of limitations. *White v. Gibson*, No. CIV 00-075-FHS (E.D. Okla. Mar. 31, 2003), *aff'd*, No. 03-7054 (10th Cir. Oct. 22, 2003).

Petitioner has continued to file post-conviction applications in state court, but in 2008 the Oklahoma Court of Criminal Appeals barred him from seeking further relief from his Judgment and Sentence in CRF-81-83. *White v. State*, No. PC-2008-731 (Okla. Crim. App. Oct. 24, 2008). On April 30, 2009, the Tenth Circuit Court of Appeals denied petitioner's second motion for authorization to file a second or successive petition, finding he had "failed to make a prima facie showing of new facts." *In re White*, No. 09-7045, slip op. at 2 (10th

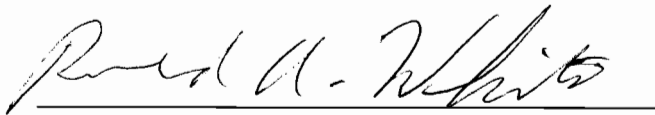
Cir. Apr. 30, 2009). The court, therefore, construes this action as a second or successive petition.

When a second or successive § 2254 . . . claim is filed in the district court without the required authorization from [the circuit court of appeals], the district court may transfer the matter to [the circuit] court if it determines it is in the interest of justice to do so under § 1631, or it may dismiss the motion or petition for lack of jurisdiction.

In re Cline, 531 F.3d 1249, 1252 (10th Cir. 2008) (citations omitted). *See also Phillips v. Seiter*, 173 F.3d 609, 610 (7th Cir. 1999) (noting that it is a waste of judicial resources to require the transfer of frivolous, time-barred cases). Because petitioner has failed to obtain authorization from the Tenth Circuit Court of Appeals to file a second or successive § 2254 petition, this action is dismissed for lack of jurisdiction.

ACCORDINGLY, this action is DISMISSED WITHOUT PREJUDICE for lack of jurisdiction.

IT IS SO ORDERED this 12th day of January 2012.


RONALD A. WHITE
UNITED STATES DISTRICT JUDGE